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James H. Murray

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HOWARD & HOWARD ATTORNEYS, P.C.  
THE PINEHURST OFFICE CENTER, SUITE #101  
39400 WOODWARD AVENUE  
BLOOMFIELD HILLS, MI 48304-5151

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/605,684  
Filing Date: October 17, 2003  
Appellant(s): MURRAY ET AL.

\_\_\_\_\_  
Kristopher K. Hullibarger  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 02/29/2008 appealing from the Office action mailed 11/30/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

A. Wink Communications (<http://web.archive.org/web/200001206040800/wink.com>)

B. V. Michael Bove, Jr. et al. Adding Hyperlinks to Digital television, Proc. 140th SMPTE Technical Conference, 1998

C. Wink Communications

([http://www.itvt.com/screenShotGallery/Intellocity\\_&\\_Wink\\_Communications/page1.hm](http://www.itvt.com/screenShotGallery/Intellocity_&_Wink_Communications/page1.hm))

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13,15-33 and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wink Communications

(<http://web.archive.org/web/19991012081750/http://wink.com/>) in view of Bove et al (Adding Hyperlinks to Digital Television).).

**As to independent claim 1**, Wink teaches a method of retrieving information associated with an object present in a media stream (E Page 3; adding hyperlinks to a

media stream, retrieving information being that of the hyperlink and an object being a layer over the media stream having graphical areas that are selectable by the user, wherein when selected acts as a hyperlink), said method comprising the steps of: defining a user-selectable region in a layer separate from the media stream (E Page 6; Wink Studio) without accessing individual frames of the media stream (E Page 6, figures 1 and 2; in figure 1 the white-box in the development window is the space allotted for the media stream, while the graphics located in at the bottom of the development window are context and defined user-selectable regions whom which are present during the set duration of time of the media stream; adding a set graphical area below/on top of the media stream (overlay) will result in not having to access every frame individually for creation/edit purposes by the operator, because the overlay was created at point A in time of a video segment and ended at point B at the end of the segment and in between A and B was not accessed, thus not accessing every frame individually by the author.) Wink teaches the user- selectable region corresponding to the object present in the media stream (E Page 11; User is selecting object to order a video); defining a link to the information associated with the object (E Page 6, Wink Studio); linking the user-selectable region in the layer to the link for the information associated with the object (E Page 6; Wink Studio); positioning the user-selectable region in the layer over the object during playback of the media stream (E Page 6 and 11); disposing the layer adjacent the media stream without interfering with playback of the media stream (E Page 2, par. 2 and E Page 11 , fig.2; where the interactive content is displayed overtop of the media making it adjacent); playing the media stream in the

player (E Page 10, Wink Engines (set-top box is making use of Wink protocols (E Page 5) to play media); playing the media stream in a player (Col. 3, lines 9-10); selecting the user-selectable region from within the layer during playback of the media (E Page 6 and E Page 11, fig. 1); and accessing the information associated with the object in response to selecting the user-selectable region from within the layer (E Page 1, par. 2; selecting object will provide user with associated data and E Page 3).

Wink does not specifically mention tracking a position of an object present in a media stream. Wink does not explicitly teach that when defining a user-selectable region without accessing individual frames of the media stream. However in the same field of endeavor (interactive TV) and for the same problem being solved (adding hyperlinks in a media stream) Bove teaches a method of adding hyperlinks to a media stream in such that for a user to add user selectable regions to a media stream and then tracking a position of an object present in a media stream; the user-selectable region tracks the position of the object during playback of the media stream (page 2, paragraph 2). Bove teaches defining a user-selectable region without accessing individual frames of the media stream (page 3, paragraph 4, wherein the analysis of defining the area that is selectable by the user is not accessing each frame individually, the user only defines the location once and then the algorithm of Bove tracks the region selected throughout the media stream.)

Because both reference Wink and Bove teach methods of adding hyperlinks to a media stream, it would have been obvious to one of ordinary skill in the art to substitute one method for the other to achieve the predictable result of tracking a position of an

object present in a media stream and when defining a user-selectable region without accessing individual frames of the media stream.

It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data embedding in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 2, Wink does not specifically mention a method as set forth in claim 1 wherein the step of defining the user-selectable region is further defined as the step of defining positional data for the object based upon a position and size of the object present in the media stream, whereas Bove does teach (Page 3, par. 4-5) It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1-3 "tracking objects throughout the a video scene").

As to dependent claim 3, Wink does not specifically mention a method as set forth in claim 1, further including the step of redefining the user-selectable region within the layer in response to the object changing within the media stream, whereas Bove does teach (Page 3, par. 5 and Page 4, par. 2). It is obvious to one of ordinary skill in

the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 4, Wink does not specifically mention a method as set forth in claim 1, wherein the step of defining the user-selectable region further includes the step of defining a plurality of user-selectable regions for the object in response to the object being present in a plurality of positions in the media stream whereas Bove does teach (Page 3, par. 5 and Page 4, par. 2). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 5, Wink does not specifically mention a method as set forth in claim 1, wherein the step of positioning the user-selectable region is further defined as synchronizing the user-selectable region within the layer to a position of the object in the media, whereas Bove does teach (Page 3, par. 3-4), Wink teaches without accessing individual frames of the media stream (E Page 6, figures 1 and 2; in figure 1 the white-box in the development window is the space allotted for the media stream, while the graphics located in at the bottom of the development window are context and defined user-selectable regions whom which are present during the set duration of time of the media stream. Those skilled in the art will appreciate the fact that adding a set



graphical area below/on top of the media stream will result in not having to access every frame individually for creation/edit purposes by the operator. Also Bove teaches without accessing individual frames (Page. 3, par.4). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 6, Wink teaches a method as set forth in claim 1, further including the step of displaying an icon that represents a user-selectable region present in the layer capable of being selected (E Page 1, paragraph 2 and E Page 3).

As to dependent claim 7, Wink does not specifically mention a method as set forth in claim 1, further including the step of monitoring an identifying characteristic for the object in the media stream, whereas Bove does teach (Page 3, par. 4). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 8, Wink does not specifically mention a method as set forth in claim 1, wherein the step of monitoring the identifying characteristic is further defined as monitoring the media stream for a predetermined color palette, whereas

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Bove does teach (Page 3, par.6; collection of pixel's each having a set color defines an object which in turns makes up the color palette). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 9, Wink does not specifically mention a method as set forth in claim 7, wherein the step of monitoring the identifying characteristic is further defined as monitoring the media stream for a predetermined symbol, whereas Bove does teach (Page 4, par.6). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 10, Wink does not specifically mention a method as set forth in claim 7, further including the step of detecting a change in the identifying characteristic and re-defining the user-selectable region within the layer in response to detecting the change of the identifying characteristic, whereas Bove does teach (Page 3, last par. and Page 4, first par.). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 11, Wink does not specifically mention a method as set forth in claim 10, wherein the step of detecting the change in the identifying characteristic is further defined as automatically detecting the change in the identifying characteristic for the object during playback of the media stream, whereas Bove does teach (Page 3, last par. and Page 4, first par.). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 12, Wink does not specifically mention a method as set forth in claim 11, wherein the step of redefining the user-selectable region is further defined as automatically re-defining the user-selectable region within the layer in response to automatically detecting the change in the identifying characteristic for the object, whereas Bove does teach (Page 3, last par. and Page 4, first par.). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 13, Wink does not specifically mention a method as set forth in claim 1, further including the step-stopping playback of the media stream in

response to selecting the user-selectable region from within the layer, whereas Bove does teach (Page 7, par. 2). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 15, Wink does not specifically mention a method as set forth in claim 1, further including the step of continuing playback of the media stream in response to selecting the user-selectable region from within the layer, whereas Bove does teach (Page 7, par. 1 and 2). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 16, Wink does not specifically mention a method as set forth in claim 15, further including the step of displaying the object information in at least one of the layer and a window separate from the layer while the playback of the media stream continues in the player, whereas Bove does teach (Page 4, par. 6; One of ordinary skill would appreciate that clicking on a an object relates to an action being performed from the user and said action pulling up information from a URL on the World Wide Web and then having said information rendered to the screen that this information can be displayed in a native browser/window separate from the media stream). It is

obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 17, Wink teaches a method as set forth in claim 1, further including the step of establishing two-way communication between a user interacting with the layer and a provider transmitting a video signal having the media stream and the layer (E Page 3 and 11).

As to dependent claim 18, Wink teaches a method as set forth in claim 17, further including the step of collecting user data related to selection of links made during playback of the media stream present therein (E Page 9, paragraph 1).

As to dependent claim 19, Wink teaches a method as set forth in claim 18, further including the step of transmitting the user data to the provider to track the links selected from within the layer (E Page 9, paragraphs 2 and 4).

**Wink teaches a player device for playing the media stream with the object therein (E Page 2, par. 2); and a layer disposed adjacent the media stream during playback and presenting the user-selectable region for selection by the user to access the information (E Page 2, par. 2 and E Page 11, fig.2; where the interactive content is displayed**

overtop of the media making it adjacent); playing the media stream in the player (E Page 10, Wink Engines (set-top box is making use of Wink protocols (E Page 5) to play media);

**Note:** Wink and Bove provide systems, methods and teachings of interactive TV, where as the developers have an authoring tool/editor to add interactive content to the media stream to which will be broadcasted to the end-user. They both teach about user selectable objects upon which Bove goes into further depth of explaining how to track objects movements throughout a media stream and updating it accordingly with a link associated with present object's defined area/hotspot. It is appreciated by those skilled in the art that these two teachings are related by purposes set forth by a media stream having interactive hyperlinks associated with onscreen objects (graphical and video alike).

**As to independent claim 20,** Wink teaches a method of providing a video signal from a provider to a user (E Page 10, Figure Diagram), said method comprising the steps of: transmitting a first component of the video signal having a media stream therein (E Page 10, Wink Broadcast Server and Data Insertion); transmitting a second component of the video signal having a layer with user-selectable regions corresponding to objects present in the media stream and linked to information associated with the object (E Page 10, Wink Broadcast Server and Data Insertion); receiving the video signal with a player (E Page 10, Wink Engines (which is in a cable box designed to handle Wink application); disposing the layer adjacent the media

stream without interfering with playback of the media stream (E Page 2, par. 2 and E Page 11, fig.2; where the interactive content is displayed overtop of the media making it adjacent); playing the media stream in the player (E Page 10, Wink Engines (set-top box is making use of Wink protocols (E Page 5) to play media); positioning the user-selectable regions within the layer to the objects present in the media stream during playback (E Page 6, Operator is able to position interactive regions for the user within the creation studio's current form); and enabling the user-selectable region to allow the user to select the user-selectable regions and access the informant associated with the object (E Page 6 and E Page 11, fig.1). Wink does not specifically mention tracking however in the same field of endeavor Bove teaches tracking a position of an object present in a media stream; the user-selectable region tracks the position of the object during playback of the media stream (page 2, paragraph 2); and synchronizing the user-selectable region within the layer to a position of the object in the media stream without accessing individual frames of the media stream (page 3, paragraph 3). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented embedded in a graphical overlay (Page 2, par. 1) Also note page 3, paragraph 4 wherein defining a user selectable region without accessing all individual frames of the media stream *and the analysis of claim 1 above.*

As to dependent claim 21, Wink teaches a method as set forth in claim 20, further including the step of establishing two-way communication between the user interacting with the layer and the provider transmitting the video signal (E Page 9, par. 1).

As to dependent claim 22, Wink teaches a method as set forth in claim 21, further including the step of collecting user data related to selection of links made during playback of the media stream (E Page 9, par. 2).

As to dependent claim 23, Wink teaches a method as set forth in claim 22, further including the step of transmitting the user data to the provider to track the links selected from within the layer (E Page 9, par. 4).

**As to independent claim 24**, Wink teaches a device for storing information associated with an object present in a media stream (E Page 10; Video Integration, where Networks add Wink into their broadcastings, it is at this location where their computers are storing information of interactive objects in media stream), said device comprising: a media stream with an object therein (E Page 3); information associate with said object (E Page 3); a layer for disposition adjacent said media stream during playback and having a user-selectable region corresponding to said object in said media stream (E Page 2, par. 2 and E Page 11, fig.2; where the interactive content is displayed overtop of the media making it adjacent); and a link between said user-



selectable region and said information associated with said object for accessing said information associated with said object in response to said user-selectable region being selected (E Page 2 and E Page 12). Wink does not specifically mention tracking however in the same field of endeavor Bove teaches tracking a position of an object present in a media stream; the user-selectable region tracks the position of the object during playback of the media stream (page 2, paragraph 2); and synchronizing the user-selectable region within the layer to a position of the object in the media stream without accessing individual frames of the media stream (page 3, paragraph 3). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented embedded in a graphical overlay (Page 2, par. 1). Note the analysis of claim 1 above.

As to dependent claim 25, Wink does not specifically mention a device as set forth in claim 24, further including positional information defined for said user-selectable region based upon a position and size of said object present in said media stream, whereas Bove does teach (Page 3, par. 4-5). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 26, Wink does not specifically mention a device as set forth in claim 25, further including a plurality of user-selectable regions in said layer corresponding to a plurality of objects, whereas Bove does teach (Page 3, par. 5). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As dependent claim 27, Wink teaches a device as set forth in claim 24, further including an icon disposed in said layer in response to said user-selectable region being present in said layer (E Page 1, par. 2).

As to dependent claim 28, Wink teaches a device as set forth in claim 24, further including a detector (program) for monitoring and detecting an identifying characteristic for the object with said layer, whereas Murray does (Col. 2, lines 55-63).

As to dependent claim 29, Wink does not specifically mention a device as set forth in claim 28, wherein said detector is further defined as detecting a color palette, whereas Bove does teach (Page 3, par. 4-5). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 30, Wink does not specifically mention a device as set forth in claim 28, wherein said detector (program), where as Bove does teach (Page 3, par. 4-5), Wink discloses an identifying feature being of further defined as detecting a predetermined symbol (E Page 3, fig. 1). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream presented in a graphical overlay (Page 2, par. 1).

As to dependent claim 31, Wink teaches a device as set forth in claim 24, further including a window for displaying information associated with the object (E Page 3 and 11).

As to dependent claim 32, Wink teaches a device as set forth in claim 31, wherein said window is further defined as being displayed in said layer (Wink Studio and Video Integration E Page 6 and 10; wherein the studio the operator creates the wink application, seen in figure 1 depicted a layer for video broadcasting and a layer for information.)

As to dependent claim 33, Wink teaches a device as set forth in claim 32, wherein said window is further defined as being displayed in said media stream (E Page 10).

**As to independent claim 35**, Wink teaches a system capable of storing (Wink Software and Video Integration) and retrieving (Response Network) information associated with an object present in a media stream provided with a video signal from a provider (E Page 10), said system comprising: an editor defining a user-selectable region corresponding to the object in the media stream without accessing individual frames of the media stream and defining a link between said user-selectable region and information associated with said object (E Page 6, figures 1 and 2; in figure 1 the white-box in the development window is the space allotted for the media stream, while the graphics located in at the bottom of the development window are context and defined user-selectable regions whom which are present during the set duration of time of the media stream. Those skilled in the art will appreciate the fact that adding a set graphical area below/on top of the media stream will result in not having to access every frame individually for creation/edit purposes by the operator.); Wink does not specifically mention tracking however in the same field of endeavor Bove teaches tracking a position of an object present in a media stream; the user-selectable region tracks the position of the object during playback of the media stream (page 2, paragraph 2); and synchronizing the user-selectable region within the layer to a position of the object in the media stream without accessing individual frames of the media stream (page 3, paragraph 3). It is obvious to one of ordinary skill in the art at the time of the invention to have used the teachings of Wink into the teachings of Bove, because they solve the same problem of providing interactive TV with hyperlinked data in a media stream

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presented embedded in a graphical overlay (Page 2, par. 1). Note the analysis of claim 1 above.

As to dependent claim 36, a system as set forth in claim 35, wherein the layer is further defined as being transmitted as a component of the video signal (E Page 10; wherein the figure shows the flow of data/signals from the video integration to the wink engines).

As to dependent claim 37, a system as set forth in claim 35, wherein the layer disposed adjacent the media stream is further defined as being disposed adjacent the media stream without interfering with playback of the media stream (E Page 2, par. 2 and E Page 11, fig.2; where the interactive content is displayed ovetop of the media making it adjacent); playing the media stream in the player (E Page 10,Wink Engines (set-top box is making use of Wink protocols (E Page 5) to play media).

As to dependent claim 38, a system as set forth in claim 35, further including a plurality of user-selectable regions in said layer corresponding to a plurality of objects (E Page 12, fig.1).

As to dependent claim 39, a system as set forth in claim 35, further including an icon disposed in said layer in response to said user-selectable region being present in said layer (E Page 1, par. 2).

3. Claim 14 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wink Communications (<http://web.archive.org/web/20001206040800/wink.com/>) in view of Bove in further view of Wink Communications (Alt. Site)

[http://www.itvt.com/screenShotGallery/Intellocity\\_ & Wink Communications/page1.html](http://www.itvt.com/screenShotGallery/Intellocity_&_Wink_Communications/page1.html)

**Note:** that the referenced extra site corresponds to the same software, methods and teachings as disclosed in the above primary reference. It is obvious to one of ordinary skill in the art to have combined Wink into Wink, because they are the same product.

As to dependent claim 14, Wink (Alt. Site) teaches a method as set forth in claim 13 further including the step of displaying the object information in at least one of the layer, the player, and a window separate from the layer and the player, while the playback of the media stream is stopped (Fig.1; ESPN portal page is being displayed from the interaction of the user clicking on the ESPN today selectable region on the layer which is adjacent to the media stream of a hockey game.)

As to dependent claim 34, Wink teaches a device as set forth in claim 31, wherein said window is further defined as a window separate from said layer and said media stream (Fig.1; ESPN portal page is being displayed from the interaction of the

user clicking on the ESPN today selectable region on the layer which is adjacent to the media stream of a hockey game.)

#### **(10) Response to Argument**

Beginning on page 6 of Appellant's brief (herein after Brief), Appellant argues specific issues, which are accordingly addressed below.

A1. The applicant argues that there is no specific suggestion or teaching in the references to combine prior art. As well as the combination does not teach "a user-selectable region in a layer separate from the media stream and without accessing individual frames of the media stream", "tracking a position of objects present in the media stream and linked to information associated with the objection" , "tracking a position of the object in the media stream to synchronize the user-selectable region within the layer to position of the object in the media stream without accessing individual frames for the media stream during playback" and "a user-selectable tracking position of the object in the media stream without accessing individual frames of the media stream and defining a link between the user-selectable region and information associated with the object".

R1. The Examiner responded to the Applicant that KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support

fining of obviousness. See the recent Board decision *Ex parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing KSR, 82 USPQ2d at 1396) (available at <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071925.pdf>).

The claims are rejected under 35 USC 103 as being unpatentable over Wink in view of Bove.

Wink teaches a method of retrieving information associated with an object present in a media stream (E Page 3; adding hyperlinks to a media stream, retrieving information being that of the hyperlink and an object being a layer over the media stream having graphical areas that are selectable by the user, wherein when selected acts as a hyperlink), said method comprising the steps of: defining a user-selectable region in a layer separate from the media stream (E Page 6; Wink Studio) without accessing individual frames of the media stream (E Page 6, figures 1 and 2; in figure 1 the white-box in the development window is the space allotted for the media stream, while the graphics located in at the bottom of the development window are context and defined user-selectable regions whom which are present during the set duration of time of the media stream; adding a set graphical area below/on top of the media stream (overlay) will result in not having to access every frame individually for creation/edit purposes by the operator, because the overlay was created at point A in time of a video segment and ended at point B at the end of the segment and in between A and B was not accessed, thus not accessing every frame individually by the author.) Wink



teaches the user- selectable region corresponding to the object present in the media stream (E Page 11; User is selecting object to order a video); defining a link to the information associated with the object (E Page 6, Wink Studio); linking the user-selectable region in the layer to the link for the information associated with the object (E Page 6; Wink Studio); positioning the user-selectable region in the layer over the object during playback of the media stream (E Page 6 and 11); disposing the layer adjacent the media stream without interfering with playback of the media stream (E Page 2, par. 2 and E Page 11 , fig.2; where the interactive content is displayed overtop of the media making it adjacent); playing the media stream in the player (E Page 10,Wink Engines (set-top box is making use of Wink protocols (E Page 5) to play media); playing the media stream in a player (Col. 3, lines 9-10); selecting the user-selectable region from within the layer during playback of the media (E Page 6 and E Page 11,fig.1); and accessing the information associated with the object in response to selecting the user-selectable region from within the layer (E Page 1, par. 2; selecting object will provide user with associated data and E Page 3).

Wink does not specifically mention tracking a position of an object present in a media stream. Wink does not explicitly teach that when defining a user-selectable region without accessing individual frames of the media stream. However in the same field of endeavor (interactive TV) and for the same problem being solved (adding hyperlinks in a media stream) Bove teaches a method of adding hyperlinks to a media stream in such that for a user to add user

selectable regions to a media stream and then tracking a position of an object present in a media stream; the user-selectable region tracks the position of the object during playback of the media stream (page 2, paragraph 2). Bove teaches defining a user-selectable region without accessing individual frames of the media stream (page 3, paragraph 4, wherein the analysis of defining the area that is selectable by the user is not accessing each frame individually, the user only defines the location once and then the algorithm of Bove tracks the region selected throughout the media stream.)

Because both references Wink and Bove teach methods of adding hyperlinks to a media stream (interactive TV, having special areas of interest locating in the TV stream, known as hyperlinks), it would have been obvious to one of ordinary skill in the art to substitute one method for the other to achieve the predictable result of tracking a position of an object present in a media stream and when defining a user-selectable region without accessing individual frames of the media stream. The claims would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

A2. Applicant argues examiner failed to establish a prima facie case of obviousness and has submitted a Declaration under 37 C.F.R. 1.132 from Mr. Peter Hochstein, a person of at least ordinary skill in the art.

R2. The Examiner and the Office thanks the Applicant for submitting a Declaration and providing the views and opinion of Mr. Peter Hochstein as one of ordinary skill in the art. After careful consideration of the Declaration and the submitted prior art relied upon and the Applicants arguments the Examiner is not persuaded and believes it would have been obvious to one of ordinary skill in the art to combine Bove into Wink and furthermore the combination of Wink and Bove teach each limitation relied upon in the previous office action especially the two limitations pointed out in the remarks section of the amendment provided by the application on pages 12-13. (Also note A1 above).

A3. Applicant argues dependent claims 14 and 34.

R3. Examiner provided Wink II as a supplemental reference to better show how (visually) Wink is capable of displaying the object information in at least one of the layer, the player and a window separate from the layer and the player, while the playback of the media stream is stopped. One of ordinary skill in the art would recognize that the same system as Wink I reference mentioned above is being used and is named Wink II for clarification of the two sources. Wink I is fully capable of performing the limitation of claims 14 and 34 (E page 11; which depicts information being displayed adjacent to the video stream and wherein Bove shows on page 7 the user has stopped playback to view hyperlinks within the media stream) , Wink II

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was just a supplemental reference added with the idea that it is the same system presented by Wink I.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Nicholas Augustine/  
Patent Examiner  
May 9, 2008

Conferees:

/Weilun Lo/  
Supervisory Patent Examiner, Art Unit 2179  
May 9, 2008

/Ba Huynh/  
Primary Examiner, Art Unit 2179  
May 9, 2008

Kristopher K. Hulliberger  
The Pinehurst Office Center, Suite 101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151  
(248)645-1483